

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

CIVIL ACTION FILE NO.: 7:19-cv-89-BO

NEIGHBORHOOD NETWORKS)	
PUBLISHING, LLC and N2)	
FRANCHISING, LLC,)	
Plaintiffs,)	DECLARATION OF CHRISTINE
)	ROSHTO IN SUPPORT OF
v.)	PLAINTIFFS' RESPONSE IN
)	OPPOSITION TO DEFENDANT'S
JACQUELINE MARIE LYLES and)	MOTION FOR SUMMARY
LIFESTYLE PUBLICATIONS, LLC,)	JUDGMENT
Defendants.)	

Christine Roshto, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set forth in this Declaration is based on my personal knowledge.

2. I am a franchisee and Area Director with N2 Franchising, Inc., and submit this Declaration in support of Plaintiffs' Response in Opposition to Defendant's Motion for Summary Judgment.

3. I have been an Area Director with N2 since 2014.

4. Since 2018, I have lived in Greensboro, N.C. where I, as an N2 franchisee, run and operate two N2 publications – *Irving Park Living and Life at Jake Jeanette*.

5. As an N2 Area Director and franchisee, one of my main responsibilities is to solicit and sell advertising for publication in those two

magazines and other N2 publications in which prospective advertisers may be have interest advertising.

6. One of my former advertisers is a furniture manufacturer based in Dallas, Texas called American Leather. American Leather does not sell directly to consumers, but instead distributes its product through retailers located across North America.

7. American Leather, as a manufacturer, markets its products, at least in part, using co-op advertising. Generally speaking, co-op advertising is where a retailer's advertisement features a specific manufacturer, who in turn reimburses the retailer for all or part of the advertising cost.

8. My contact at American Leather introduced me to one of the regional independent sales representatives – Todd Crandall of Crandall & Associates. As an American Leather's sales rep, Mr. Crandall worked with many American Leather retailers located in the southeast US, including Georgia and Alabama. Todd was included in the ad buy discussions under American Leather's co-op advertising program.

9. Working with Mr. Crandall and American Leather's co-op advertising program, I sold advertising to American Leather retailers for publication in N2 neighborhood magazines located in multiple cities, including Fairhope, AL, Atlanta, GA and Raleigh, NC.

10. In terms of process, Rico Berrios, American Leather's VP of Sales at the time would identify a specific American Leather retailer in a specific

southeastern city that he wanted to offer additional exposure with advertising under the co-op advertising program. I would then identify for Mr. Berrios the various N2 neighborhood publications located near that retailer. After the specific N2 publication(s) in which the retailer's ad would run had been selected, I would close the sale by putting an advertising agreement in place between N2 and American Leather.

11. One of American Leather's retailers that participated in American Leather's co-op advertising program and to whom I sold advertising was a home furnishings store located in Atlanta called Verde Home.

12. Attached here as Exhibit A is a true and correct copy the advertising agreement dated 26 October 2018 between N2 and American Leather for Verde Home.¹ The advertising agreement shows that the relevant Verde Home ad would run in two N2 publications located in Atlanta – *Chastain Park* and *Peachtree Battle Living* – for 12 months each.

13. Although I do not operate either *Chastain Park* or *Peachtree Battle Living*, N2's system allows Area Directors to sell into other N2 publications for what's known as a cross-sale. As the Area Director originating the sale, I remained responsible for managing both the American Leather relationship and that specific advertising purchase, which would have included entering the agreement's key terms and payment information into the N2 Portal and uploading the client's ad into N2's PubManager.

¹ The advertising agreement has been redacted to remove pricing information, which N2 treats as confidential.

14. In order to access N2 Portal and PubManager, I must sign in with a unique username and secure password. I understand from both the terms of my Franchise Agreement with N2 and general knowledge, that I'm authorized to access and use those systems only to conduct business in my capacity as an N2 franchisee, and that it would be improper for me to use the Portal or PubManager for any other reason.

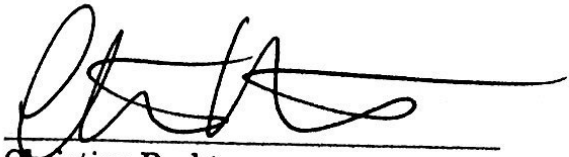
15. In spring of 2019, Todd Crandall told me that he had been contacted via email by Lifestyle Publications soliciting advertising business from American Leather. Lifestyle Publications is a direct competitor of N2.

16. I asked Mr. Crandall to forward the emails to me, which he did on 2 April 2019. Attached here as Exhibit B is a true and correct copy of the email exchange between Lifestyle Publications and Mr. Crandall that Mr. Crandall forwarded to me via email on 2 April 2019.

17. Because the Lifestyle Publications emails to Mr. Crandall were sent by Jackie Lyles, a former N2 Area Director, I forwarded the emails to Nichole Geraghty who is a sales leader with N2, as also shown by the emails included under Exhibit B attached here.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 24, 2020.



Christine Roshto

ND: 4850-4295-7761, v. 1

Advertising Agreement						CLIENT ACCOUNT NUMBER:	
DATE <u>10/26/2018</u>		AD REP <u>Christine Roshto</u>		OFFICE <u>NC_Greensboro</u>			
COMPANY NAME <u>American Leather dba Verde Home</u>							
CONTACT PERSON <u>Rico Berrios</u>				EMAIL <u>rberrios@americanleather.com</u>			
OFFICE PHONE <u>678.927.9113</u>		CELL PHONE		FAX			
WEBSITE <u>verdehomeinc.com</u>							
ADDRESS <u>999 Brady Ave</u>						SUITE <u>4</u>	
CITY <u>Atlanta</u>				STATE <u>GA</u>		ZIP <u>30318</u>	

NEIGHBORHOOD	INDIVIDUAL PRICE	# MONTHS	AD SIZE	PLACEMENT (Refer to Key)	SPONSOR INDEX (Category)	PLACEMENT KEY:	STANDARD RATE/MO.
<u>Chastain Park</u>	<u>825</u>	<u>12</u>	<u>Full</u>	<u>float</u>		FRONT FRONT COVER <u>A</u>	<u>\$ 1750</u>
			<u>index</u>		<u>Home Furn.</u>	FRONT BACK COVER <u>B</u>	<u>DISCOUNT - 320</u>
						BACK COVER <u>C</u>	<u>HARD COPY FEE \$</u>
<u>Peachtree Battle</u>	<u>605</u>	<u>12</u>	<u>Full</u>	<u>float</u>	<u>Home Furn.</u>	LEFT CENTERFOLD <u>D</u>	<u>MONTHLY PAYMENT \$ 430</u>
						RIGHT CENTERFOLD <u>E</u>	<u>AD DESIGN \$</u>
						CORNER <u>F</u>	<u>AD MANAGEMENT \$ 199</u>
						REAL ESTATE RESOURCE <u>G</u>	<u>FIRST MONTH'S PAYMENT (with ad design/ad mgmt fee) \$ 1629</u>
						COLOR CENTER 1 <u>H</u>	
						COLOR CENTER 2 <u>I</u>	
						COLOR CENTER 3 <u>J</u>	
						COLOR CENTER 4 <u>K</u>	
TOTAL						PUBLICATION START <u>12/18</u>	PUBLICATION END <u>11/19</u>
						month year	month year

COMMENTS/DESIGN INSTRUCTIONS

Includes article on the business
American Leather / Verde

PAYMENT TYPE	E-CHECK <input type="checkbox"/>	VISA <input checked="" type="checkbox"/>	MASTERCARD <input type="checkbox"/>	AMEX <input type="checkbox"/>	DISCOVER <input type="checkbox"/>
CONFIRMATION NUMBER	Use the online form or call 1-844-877-7278 to submit credit card information and get a confirmation number				
BILLING ADDRESS	<u>4501 Mountain Creek Pkwy</u>				
CITY	<u>Dallas</u>	STATE	<u>TX</u>	ZIP	<u>75236</u>
		NAME ON CARD		<u>Rafael Berrios</u>	

SIGNATURE X DATE X 10-26-18

N2 Publishing, Inc.
PO BOX 602906 - Charlotte, NC 28260-2906

Rev. 9.1.15

PARTIES. This Advertising Agreement is made by and between the merchant as identified on page 1 of the agreement next to "Company Name" (hereinafter referred to as "Merchant"), and Neighborhood Networks Publishing, Inc., headquartered in Wilmington, NC (hereinafter referred to as "N2"). The Merchant in this agreement is the advertiser, and N2 is the publisher.

AD PROOFS. The Merchant will be given a chance to approve a proof of the ad or request specific changes. The Merchant will be given a minimum of 48 hours to review the ad proof and provide any feedback or request for changes to the designers at N2. If the Merchant fails to provide a response to N2 at the end of the 48-hour period, the ad proof will be published as is, and the Merchant will be billed as designated in the agreement. N2 is not responsible for errors the Merchant fails to correct on the proof. The ad proof color on emails and lasers is not exact and can vary upon publications. If Merchant has purchased a 1/4 page sponsorship ad and there is no sponsorship article in a given month, the ad will run as a full page. Merchant is responsible for providing both ad sizes to N2 at the beginning of the term unless N2 is providing ad design services.

If the Merchant is providing the ad, or providing materials for N2 to create the ad with, the ad must be submitted to N2 by the publication deadline. The Merchant will be billed as designated in the agreement, even if the Merchant fails to meet the deadline.

Anything in this Agreement to the contrary notwithstanding, N2 shall have no obligation to print the neighborhood publication in which Merchant is purchasing advertising space unless N2's costs to publish such publication are covered by the area director ("Area Director") responsible for the area or neighborhood in which such publication is circulated and/or the advertisers to whom Area Director has sold advertisement on N2's behalf.

N2 reserves the right to reject any ad in its sole discretion without breaching this agreement. Reasons would include but are not limited to: ad having sexually explicit images, offensive language, political in nature, damaging to N2's reputation, etc.

PUBLICATIONS NOT IN PRINT. For all advertising purchased in publications that are not yet in print, "Publication Start" and "Publication End" dates will be left blank. This Agreement will be governed by the number of months listed in the "8 Months" section on the Agreement. The ad will run for this listed amount of consecutive months, starting with the inaugural issue, which will launch within 12 months of Agreement date.

RESPONSIBILITY. N2 has the right to hold the Merchant and/or its agency or signer, jointly and severally liable for the full amount due on the agreement (i.e., payments for advertising space).



PAYMENT. Equal monthly payments can be made with the first due at the time of the signing of the agreement. The Merchant will be billed one month in advance for the duration of the agreement. Accepted payments include: Checks for advanced payments in full only, Visa, Mastercard, Discover, American Express, or E-Check.

FULL PAYMENT. Merchant agrees that full payment of the agreement price must be rendered in order for the terms of the agreement to be satisfied. The Merchant may cancel the agreement at any time, but must remit the FULL AGREEMENT PRICE upon cancellation. No partial payment or pro-rated amounts will be accepted as payment in full unless otherwise specified in writing.

UNPAID BALANCES. Balances that go unpaid after 30 days will result in late charges of 1 1/2% per month until the total outstanding balance is paid or judgment is entered. If judgment is entered in connection with this agreement, interest shall continue to accrue after the date of judgment at the rate of 1 1/2% per month.

TRADE-OUT/BARTER TRANSACTIONS. In the event that Merchant provides goods or services to Area Director as full or partial consideration for advertisements to be placed in neighborhood publications as

contemplated by this Agreement (a "Trade-Out Transaction"), Merchant acknowledges and agrees that N2 shall not be a party to such Trade-Out Transaction. Merchant further acknowledges and agrees that N2 will have no responsibility or liability to Merchant in the event that the advertisements which are the subject of any such Trade-Out Transaction are not published, and Merchant's only recourse in such event will be against Area Director.



CANCELLATION OF AGREEMENT. All agreements received and signed by Merchant are non-cancelable by Merchant unless full agreement price has been rendered.



EXCLUSIVITY. Merchant shall not have any exclusive advertising rights and/or protection from competing advertisers.

RESULTS. Placement of an advertisement is not a guarantee to Merchant of specific results.

PUBLICATION DELIVERY. Unless otherwise specified, N2 Publishing shall distribute each publication mentioned on the front of this Agreement through the United States Postal Service via Standard Bulk Mail. N2 Publishing makes no guarantees as to the arrival date of each publication and cannot be held liable for mail that is lost or delivered late.

DEFAULT AND ACCELERATION CLAUSE. If the Merchant defaults in the payment of this agreement or in the performance of any obligation, and the default continues after N2 gives Merchant notice of the default and the time within which it must be cured, as may be required by law or written agreement, then N2 may declare the unpaid balance of the agreement immediately due. Merchant and each surety and guarantor, waive all demands for payment, presentation for payment, notices of intentions to accelerate maturity, notices of acceleration of maturity, protests, and notices of protest, to the extent permitted by law.

In the event of such a default, N2 reserves the right to stop publishing Merchant's ad in the applicable newsletters, and the Merchant forfeits any rights to demand future publication of the ad by N2.

SEVERABILITY. If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

ATTORNEY'S FEES. If this Agreement is given to an attorney for collection or enforcement, or if suit is brought for collection or enforcement, or if it is collected or enforced through probate, bankruptcy, or other judicial proceeding, then Merchant shall pay to N2 all costs of collection and enforcement, including reasonable attorney's fees and court costs in addition to other amounts due.

GOVERNING LAW. This Agreement shall be governed, construed and interpreted by, through and under the procedural and substantive laws of the State of North Carolina. Merchant and N2 stipulate that the State of North Carolina shall have sole jurisdiction, and that venue shall be proper and shall lie exclusively in the courts of New Hanover County, North Carolina.

ENTIRE AGREEMENT. Both parties agree that this agreement constitutes the entire agreement between the parties, and any other changes or alterations to this agreement at a later time must be made in writing and signed by both parties. This agreement may be superseded by a subsequent agreement if and only if the subsequent agreement specifically states. This agreement supersedes any prior agreements entered into between the Merchant and N2 Publishing. As of the date of signing there are no prior documents that may be used to assist in interpreting this agreement.

I hereby acknowledge that I have had the opportunity to review the agreement in its entirety, and I understand and agree with all of the terms of the agreement as written above.

MERCHANT:

BY:

NAME:

TITLE:

American Leather
Rico Berrios
VP of Sales

N2: NEIGHBORHOOD NETWORKS PUBLISHING, INC.

BY:

NAME:

TITLE:

Christine Roshto
Area Director

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

----- Forwarded message -----

From: Christine Roshto <christine.roshto@n2pub.com>
Date: Tue, Apr 2, 2019 at 7:31 PM
Subject: Fwd: Re: American Leather Proposals
To: Nicole Geraghty <nicole.geraghty@n2pub.com>

From Jackie Lyles

----- Forwarded message -----

From: Todd Crandall <toddcrandall@comcast.net>
Date: Tue, Apr 2, 2019 at 5:29 PM
Subject: Fwd: Re: American Leather Proposals
To: Christine Roshto <christine.roshto@n2pub.com>

Todd Crandall
Crandall & Associates
[1564 Tennessee Walker Dr.](#)
[Roswell, GA 30075](#)
cell 404-886-0431

----- Original Message -----

From: Jackie Lyles <jackie.lyles@lifestylepubs.com>
To: Todd Crandall <toddcrandall@comcast.net>
Date: April 2, 2019 at 8:50 AM
Subject: Re: American Leather Proposals

Sounds good

I think Paul was headed out of town to market so I apologize for emailing you - though I think your job sounds really cool! :)
A friend of mine works for n2 Publishing and had mentioned the Chastain Park publication may of closed down beginning with the April issue so perhaps check on that
The person had some hard times

It made me think there could be freed up dollars for another publication that reaches a larger audience of affluent residents We'd love to have you all if so
My publisher had said last night we would be happy to upgrade your ad for the first month and then for the remaining 11 continue with a floating full

all good either way - keep me posted! We would love to be able to share American Leather with our residents-
best (Happy Tuesday)
Jackie

On Tue, Apr 2, 2019 at 7:46 AM Todd Crandall <toddcrandall@comcast.net> wrote:

Jackie,

I'll reach out to Paul and discuss American Leather has already committed to a couple of other publications for Verde Home, so we don't have the budget for another

Best,

Todd

Todd Crandall
Crandall & Associates
404-886-0431

On Apr 1, 2019, at 1:30 PM, Jackie Lyles <jackie.lyles@lifestylepubs.com> wrote:

Dear Todd,

I had emailed these proposals to Paul Baird and wanted to also email to you as well Our deadline to begin with our May, BuckHaven issue is this Friday, 4/5

Terrific News:

Since our publications are out at the end of the month (end of April for May), they will be out in time to promote your early May promotion and we are also on Facebook and Instagram so can let our followers know through this means as well for our sponsors

Please see below - We would love to have you apart of our affluent community publication :)

We reach 100,000+ monthly readers
readers are 70% women age 30-65
home value: 500k-6 million
Print, online, Facebook, Instagram
Link to your website from our online directory

Below are two proposals based on our conversations for American Leather:

1 **Full Page Placement for 12 issues in Buckhaven Lifestyle** and includes \$5,880 00 in added value with no additional cost to you so to help support your message

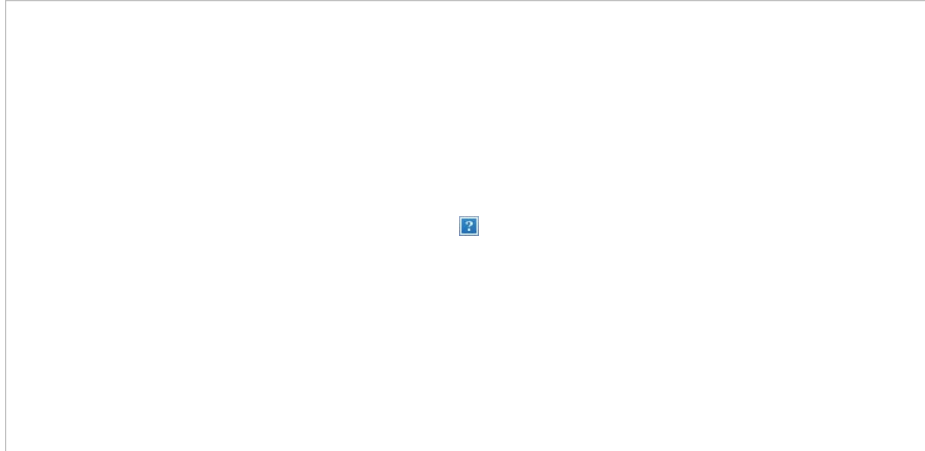
2 The second proposal option is the same 12 issues of a **Full Page but on our coveted Back Cover**, which is currently available With the second proposal we are able to offer added value of \$11,180 00 including a two page editorial feature

Our deadline for the May issue is next Friday, April 5th if interested or earlier
The sooner we know the better so we may reserve

Please call with any questions and I look forward to hearing back and possibly working together

see below :)

Jackie Lyles
(404) 936 0499



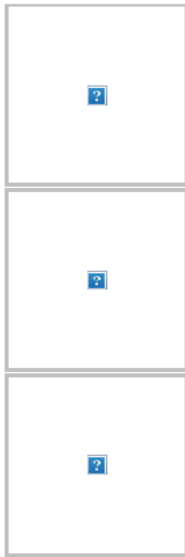
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<Screen Shot 2019-03-29 at 9 37 22 AM png>
<Screen Shot 2019-03-29 at 9 37 34 AM png>
<Screen Shot 2019-03-29 at 9 37 47 AM png>

Jackie Lyles
(404) 936-0499

[<lifestylepubs-logo.png>](#)

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alpharettallifestylepubs.com

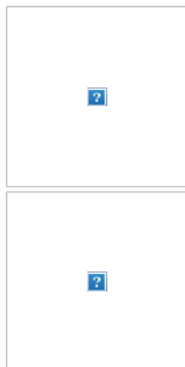




Jackie Lyles
(404) 936-0499

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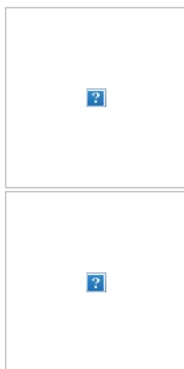




—
Jackie Lyles
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Christine Roshto
Publisher of *Irving Park Living & Life at Lake Jeanette*
N2 Publishing | christine.roshto@n2pub.com | 336.918.7200

N2GIVES donates money from each ad to fight human trafficking